

**Application No.:** 10/549,651  
**Filing Date:** January 8, 2007

### REMARKS

Claims 1-9 stand rejected. Independent Claim 1 has been amended. No new matter has been added by the amendments. Thus, Claims 1-9 are presented for consideration and further examination in view of the following amendments and remarks.

#### Amendments to the Specification

Applicant has amended the specification to replace the word “break-off” with the word “breaking” to correct a translation error in the English translation of the priority application. No new matter has been added by this amendment.

#### Rejection of Claims 1-9 under 35 U.S.C. §§ 102(b) and 103 under Kaehler

The Examiner has taken the position that Claims 1, 2, and 4-9 under 35 U.S.C. § 102(b) are anticipated by German Patent No. 704518 (Kaehler). The Examiner has also taken the position that dependent Claim 3 is obvious under 35 U.S.C. § 103(a) over Kaehler in view of the knowledge of one skilled in the art. With respect to the anticipation rejection of independent Claim 1, Applicant respectfully submits that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See M.P.E.P. § 2131.

#### Independent Claim 1

Claim 1 has been amended to recite, among other features, “a bracing bolt...; a sleeve...; and a sleeve tensioning device configured to engage the sleeve and brace the first element against the second element, the sleeve tensioning device being further configured to release the sleeve to a pre-specified extent, the bracing arrangement being configured such that increasing the operating force that separates the first and second elements from each other beyond an operating force threshold leads to relaxation of the sleeve relative to the bracing by the bracing bolt and to the consequential breaking of the bracing bolt.”

The Examiner asserts that Kaehler discloses the features of Claim 1, namely, “a ‘first element,’ ... a ‘second element,’ ... a ‘bracing bolt,’ ... [and] a ‘sleeve,’” which are “arranged so as to be inherently capable of functional recitations due to essential mechanics.” Applicant notes,

however, that the Examiner has neglected to identify any structure in Kaehler which corresponds to the "sleeve tensioning device" as recited and defined in amended Claim 1. Applicant submits that Kaehler fails to disclose any such "sleeve tensioning device." Applicant further submits that Kaehler fails to disclose any structure which is inherently configured in the manner recited in amended Claim 1. Inherency requires more than a mere *possibility* that disclosed structure may be configured in the claimed manner; instead, to establish inherency, it must be shown "that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original).

Kaehler is directed to a clamping device having connected regions of increased compression, designed to provide an improved securement of the clamped elements to one another. (P. 4, ll. 57-65, 69-73; Figs. 1 and 2). Kaehler does not show or suggest, expressly or inherently, a configuration which leads to "release" of the sleeve "to a pre-specified extent," "relaxation of the sleeve," or "the consequential breaking of the bolt," as recited in amended Claim 1. The prior art of record does not cure these deficiencies in the Kaehler reference. Accordingly, because Kaehler does not disclose each and every element of Claim 1, Applicant respectfully submits that the rejection of independent Claim 1 has been overcome.

#### Independent Claim 7

Claim 7 recites a method for bracing at least two elements, the method comprising the steps of "bracing the sleeve by means of the bracing bolt... whereby the bracing bolt compresses the sleeve, bracing the first element... on the second element... with the sleeve tensioning device, whereby the sleeve tensioning device is braced with engagement with the sleeve projecting through the first element to be braced, in such a manner that the sleeve is relaxed relative to the preceding compression up to a pre-specified extent of release, wherein an operating force, which moves the first and the second elements to be braced in mutually opposite directions, leads, above a pre-specified threshold value, to a complete release of the sleeve and to the breaking of the bracing bolt." For similar reasons as those discussed above in connection with independent Claim 1, Applicant respectfully submits that neither Kaehler nor the other references mentioned in the Office Action discloses the above-quoted steps as recited in independent Claim 7. Accordingly, because Kaehler does not disclose each and every element

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of Claim 7, Applicant respectfully submits that the rejection of independent Claim 7 has been overcome.

#### The Dependent Claims

Claims 2-6, 8, and 9 depend directly or indirectly from Claim 1 or Claim 7 and, thus, are patentable for at least the same reasons that the claim from which they depend is patentable over the applied art. Therefore, allowance of Claims 1-9 is respectfully requested.

Further, with respect to Claim 3, the Examiner has stated that "it would have been obvious... to provide the sleeve to be more elastic [than the bolt] to ensure it remains in functional contact for its intended operation." Applicant wishes to point out that Claim 3 actually recites that "the bracing bolt is more elastic than the sleeve," the reverse configuration from what the Examiner has stated would be obvious. Applicant respectfully submits that Kaehler does not show or suggest a configuration in which the bolt is more elastic than the sleeve. In the present application, elasticity is described as a valuable characteristic in that it facilitates elongation of the bolt and separation of the sleeve from the bracing. (Paragraphs [0023], [0028]). As mentioned above, however, Kaehler is directed to a clamping device designed to provide an improved securement of the clamped elements to one another. Kaehler does not show or suggest a configuration in which a relative greater elasticity of the bolt over the sleeve would be a desirable characteristic.

#### No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not

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reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

**CONCLUSION**

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Any remarks in support of patentability of one claim should not be imputed to any other claim in this or a related application, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole.

Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art discloses or teaches, even if not expressly discussed herein. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied thereby; such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter.

Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language.

The undersigned has made a good faith effort to respond to all of the noted rejections and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if an issue requires clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve any such issue promptly.


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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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